Filed 8/21/19 Marriage of Karen and Jason H. CA4/2

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re the Marriage of KAREN AND JASON H.	
KAREN H., Respondent, v. JASON H., Appellant.	E068153 (Super.Ct.No. SWD1300287) OPINION

APPEAL from the Superior Court of Riverside County. James T. Warren, Judge. (Retired judge of the Riverside Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Law Offices of Miles & Hatcher and Cornell L. Hatcher for Appellant.

Law Offices of James T. Neavitt and James T. Neavitt for Respondent.

In this marital dissolution action, Jason H. appeals from a judgment on reserved issues awarding his former wife, Karen H., $275,000 in attorney fees and costs.[1] Jason challenges the fee award on several grounds. We conclude that all of his challenges lack merit and affirm.

BACKGROUND

Jason and Karen married in November 1998, and Karen petitioned to dissolve the marriage in February 2013. The court entered a status-only dissolution judgment in March 2015. In July 2016, the parties negotiated a stipulated judgment that divided their property and determined child custody, visitation, child support, and spousal support (the stipulated judgment). The court entered the stipulated judgment in December 2016. The judgment on reserved issues awarding Karen attorney fees and costs was entered in February 2017.

The clerk's transcript on appeal spans 29 volumes. For our purposes, we need only discuss the following parts of the proceedings (and some additional background as necessary in our discussion of Jason's arguments).

I. *Appointment of a Private Judge*

In January 2014, upon stipulation of the parties, the court appointed Judge Kenneth A. Black (Ret.) to serve as a privately compensated temporary judge in this case.

---

[1] Because this case involves proceedings under the Domestic Violence Prevention Act (DVPA) (Fam. Code, § 6200 et seq.), we refer to the parties by first name and last initial to protect Karen H.'s privacy interests. (Cal. Rules of Court, rule 8.90(b)(1), (b)(11).) For ease of reading, we will omit the parties' last initial in subsequent references. No disrespect is intended.

(Cal. Const., art. VI, § 21; Cal. Rules of Court, rules 2.831(c), 2.832.) The parties agreed to compensate the private judge at an hourly rate of $500 and to split this cost equally, subject to reallocation at the time of trial. By stipulation and order, the appointment of the private judge was terminated in April 2015.

II. *Domestic Violence Restraining Orders*

Karen requested a domestic violence restraining order (DVRO) at the beginning of this case in February 2013. She sought personal-conduct orders restraining various forms of harassment by Jason and an order that he stay at least 100 yards away from her. In connection with the DVRO request, she requested that he pay her attorney fees and costs. The court immediately issued a temporary restraining order (TRO) against Jason and continued to reissue it through November 2014.

In November 2014, the parties resolved Karen's request for a DVRO by stipulation and order. The stipulation stated that the parties agreed to certain orders "without admitting any guilt, and to avoid the cost of trial." Further, the parties intended that Karen be "afforded the right to be free from harassment," and to that end, they agreed to the following restraining orders. Jason would refrain from contacting Karen by any means, except for brief and peaceful contact about their minor daughter on the coparenting website Our Family Wizard, peaceful contact as required for visitation, and phone or text contact in emergency situations involving their daughter. Jason would also stay 100 yards away from Karen and her home, workplace, vehicles, and school, except at their daughter's school activities, where he would stay 10 feet away from Karen. In addition, Jason would not harass, threaten, follow, hit, attack, molest, assault, stalk,

surveil, photograph, or videotape Karen, nor would he disturb her peace, block her movements, or destroy her personal property.

These personal-conduct and stay-away orders would expire approximately three years later in September 2017. If the court were to find that Jason violated any of these orders, a five-year DVRO would immediately issue and be entered into CLETS.[2] The stipulation was "without prejudice to either party presenting the history and/or evidence of past acts of domestic violence (or lack of domestic violence) at any future hearing." It expressly reserved "the issue of attorneys fees and costs . . . for determination at the time of trial in the dissolution of marriage proceeding."

Karen filed her second request for a DVRO in January 2015. Karen declared that Jason had violated the stipulated restraining order, so she was seeking the five-year CLETS DVRO. According to her declaration, Jason came within 30 feet of her home and was with a group of six to seven people on Harley Davidson motorcycles, several of whom were armed with knives. She also explained that, during this encounter, he videotaped her in violation of the restraining order. The court again issued a TRO and continued to reissue it through August 2015. In August 2015, the parties again resolved

---

2 "CLETS" stands for the California Law Enforcement Telecommunications System, which is the confidential database of the California Department of Justice. (Fam. Code, § 6380, subd. (a); *Richardson v. City and County of San Francisco Police Com.* (2013) 214 Cal.App.4th 671, 674, fn. 1.) "Only protective and restraining orders issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice shall be transmitted to the Department of Justice" for inclusion in CLETS. (Fam. Code, § 6380, subd. (i).) The stipulated restraining order did not fall into this category.

Karen's request by stipulation and order. The stipulation dismissed her request but stated that the stipulated restraining order from November 2014 would remain in full force and effect, and the court entered findings reiterating the terms of the stipulated restraining order. The second stipulation and order also stated that the court was reserving attorney fees and costs for a "noticed hearing or trial."

III. *Appointment of a Receiver*

The parties jointly owned two businesses, Hammerco, Inc. (Hammerco) and WaterTrailers.Net, Inc. Jason was the president and Karen was the vice president and secretary of both companies. She owned 50 percent of both companies. Jason received a salary from Hammerco, but he had other sources of income as well, such as royalties from oil wells.

In April 2013, the court granted Jason control of the companies and ordered him to give Karen monthly financial statements for them. It also ordered Jason to pay $1,998 per month in child support, $3,950 per month in spousal support, and $25,000 for Karen's attorney fees and costs. In April 2014, the private judge increased those amounts to $3,634 per month for child support and $10,000 per month for spousal support. He also ordered Jason to pay another $100,000 for Karen's attorney fees and costs.

Around that time, Karen requested that the private judge appoint a receiver to oversee Hammerco. Her declaration stated that Jason was substantially behind on his child and spousal support obligations, and she was consequently in a "desperate" financial situation. Jason had also failed to send her the monthly financial statements

reporting on their companies. She believed that he was hiding income in undisclosed accounts and argued that a receiver was the only way to enforce the court's orders.

In April 2014, the private judge denied without prejudice Karen's request for a receiver, subject to Jason's compliance with several conditions. Among other things, Jason was required to email the financial records of Hammerco to both parties' counsel each month. He would also give the parties' forensic accountants electronic access to the records. If Jason did not comply with those conditions, Karen could seek "a self-executing order that a receiver is appointed via ex parte phone application."

Jason did not pay his support obligations or the $100,000 fee award, and Karen filed affidavits for contempt in August and September 2014 and January 2015. The court issued orders to show cause. In July 2014, the court also ordered that if Jason paid his own attorneys or experts, he had to make a matching payment to Karen's attorney within 48 hours. Jason pleaded guilty to 10 counts of contempt in April 2015, and the court sentenced him to 50 days in jail.

In September 2015, Karen again requested that the court appoint a receiver to oversee Hammerco. Despite his contempt conviction, Jason still was not paying his support obligations, and he owed over $207,000 in arrears. Further, according to Karen's declaration, he was trying to devalue Hammerco and had breached his fiduciary duties to her with respect to the management of the company. He had removed her as vice president and secretary of Hammerco without her knowledge or consent. Also, Karen had discovered Secretary of State records indicating that Jason's son owned a company called Hammer Company, Inc., which started doing business at Hammerco's

headquarters in July 2014. She argued that Jason intended to deceive customers and vendors of Hammerco so that the new company could steal business away from Hammerco. In addition, at least five Hammerco assets with a value of more than $100,000 had been transferred to Jason's son without her knowledge. She identified other instances in which Jason made operational or management decisions without her knowledge, and she said she had only recently received six months' worth of past due financial records.

Moreover, Jason still had not paid the $100,000 attorney fees award. He had paid only slightly more than $4,500 to Karen's attorney but had paid over $52,000 to his own attorneys. He paid the majority of that amount after the court order requiring matching payments to Karen's attorney. Karen's attorney had not received any matching payments from him.

The court granted Karen's request and appointed a receiver to oversee Hammerco. The court also joined Hammerco as a party and ordered all of its employees, agents, and partners to comply with the court's orders. The court ordered the receiver to pay his own fees and expenses first, pay for any necessary maintenance of property in the receiver's custody second, and pay Jason's child and spousal support obligations third.

IV. *Karen's Request for Attorney Fees and Costs*

After the parties negotiated the stipulated judgment, Karen filed her request and supporting papers for $275,000 in attorney fees and costs. She requested fees and costs incurred throughout the case, but her brief also incorporated five "specific fee/sanction requests made during the course of the proceedings," which the court had reserved for

later determination. Those five prior requests included her requests for fees and costs in connection with the two DVRO proceedings.

The court heard argument on Karen's request for fees and costs in November 2016. When argument concluded, the court told the parties: "The matter is under submission. I will render a written opinion[,] a statement of decision so that you'll have that for the record."

The court issued a one-page tentative decision on December 22, 2016. The decision began: "This matter came on regularly for trial on the issue of attorney fees. . . . The parties submitted the matter on the file, pleadings submitted by each of the parties, and argument by counsel." The court explained that the tentative decision would "become the final statement of decision within the meaning of Code of Civil Procedure Section 632 unless within ten days either party files and serve[s] a document that specifies controverted issues or makes proposals not covered in the tentative decision, pursuant to Rule 3.1590(c) of the California Rules of Court."

The court awarded Karen the full amount that she requested—$275,000 in attorney fees and costs. The court found the award appropriate under section 271, which permits an award of attorney fees and costs "in the nature of a sanction." (Fam. Code, § 271, subd. (a).)[3] It concluded: "A careful review of the file shows the extent of the protracted litigation including finding [Jason] in contempt, having to appoint a forensic accountant, domestic violence restraining orders, the appointment of a private judge,

---

[3] Further undesignated statutory references are to the Family Code unless otherwise indicated.

Judge Black, and the appointment of a receiver all necessitated by [Jason's] lack of cooperation and multiple violation of court orders." The court further found the award warranted by section 2030, which permits a need-based award of attorney fees and costs. It reasoned: "[T]he Court finds that there is a disparity of income and resources between the parties and that [Jason] has a significant[ly] higher income and significantly greater resources." Lastly, the court stated that it was also relying on section 6344 (permitting a fee award to the prevailing party in a DVPA action) and Code of Civil Procedure section 405.38 (permitting a fee award to the prevailing party on a motion to expunge a lis pendens).[4]

Jason filed objections to the tentative decision on January 6, 2017. In general, he objected that the decision was ambiguous because it did not identify any facts or evidence on which it was based and it "fail[ed] to address controverted issues." He further objected that it did not accurately describe his arguments, it adopted parts of Karen's arguments that were factually inaccurate, and it sanctioned him for unproven allegations. More specifically, he objected on these grounds: (1) The court erroneously concluded that his lack of cooperation and violation of court orders led to the protracted litigation. (2) The court erroneously concluded that there was a disparity of income and resources between the parties, and the decision failed to address or consider Karen's income and income-producing assets. (3) The court "failed to show the allocation" of interim fee

[4] In April 2015, Karen requested an order expunging a lis pendens that Jason had recorded against the family residence. At the hearing on the matter, the court took Karen's request off calendar because Jason had voluntarily removed the lis pendens.

awards to Karen. And (4) there was no basis for the court's finding that the declaration of Karen's counsel detailed necessary expenditures incurred by Karen.

The court did not respond to Jason's objections and entered the judgment awarding Karen attorney fees and costs. (The judgment did note that Jason had filed objections and that Karen had responded to those objections.) The findings attached to the judgment were essentially identical to the court's tentative decision.

DISCUSSION

I. *Statement of Decision*

Jason contends that the court abused its discretion by not issuing a statement of decision after he filed objections to the court's tentative decision. We disagree.

"[U]pon the trial of a question of fact by the court," and at the request of a party, "[t]he court shall issue a statement of decision explaining the factual and legal basis for its decision as to each of the principal controverted issues at trial." (Code Civ. Proc., § 632.) But a statement of decision generally "is not required upon decision of a motion." (*Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1294; *Lavine v. Hospital of the Good Samaritan* (1985) 169 Cal.App.3d 1019, 1026.) And in particular, "[a] trial court is not required to issue a statement of decision for an attorney fee award." (*In re Marriage of Falcone & Fyke* (2012) 203 Cal.App.4th 964, 981.)

The court did not err because a statement of decision was not required in the first place. Karen's request for fees and costs was a motion resolved on the papers and oral

argument, not a trial requiring a statement of decision.[5] (*Lavine v. Hospital of the Good Samaritan*, *supra*, 169 Cal.App.3d at p. 1026 ["[A]n even more fundamental reason why the refusal of a statement of decision must be affirmed is that such a statement . . . is neither required nor available upon decision of a motion."].) This is true even though the court invoked the statement of decision process in its tentative decision. (See *Rebney v. Wells Fargo Bank* (1991) 232 Cal.App.3d 1344, 1347, 1349.)

Even assuming the court erred by failing to issue a statement of decision in response to Jason's objections, we would decline to reverse. An error "in failing to issue a requested statement of decision is not reversible per se, but is subject to harmless error review." (*F.P. v. Monier* (2017) 3 Cal.5th 1099, 1108.) We do not presume injury from error. (*In re Marriage of McLaughlin* (2000) 82 Cal.App.4th 327, 337.) The appellant must show that the error resulted in prejudice. (*Ibid*.) Jason does not attempt to do this and instead wrongly argues that the claimed error is reversible per se. He has not carried his burden on appeal.

For these reasons, we reject Jason's contention that the court should have issued a further statement of decision.

---

5 The fact that Karen styled her papers a "request," as opposed to a "motion," is consistent with the practice in family court. A "motion" in a family law proceeding is called a "request for order." (Hogoboom & King, Cal. Practice Guide: Family Law (The Rutter Group) ¶ 5:12.1.) "Although this terminology is unique to family law practice, it does not effect any change in motion practice. The family law '"request for order" has the same meaning as the terms "motion" or "notice of motion" when they are used in the Code of Civil Procedure.'" (Hogoboom & King, *supra*, ¶ 5:12.1, quoting Cal. Rules of Court, rules 5.12(a), 5.62(a), 5.63(a), 5.92(a)(1)(A)).)

II. *Appointment of the Private Judge*

Jason argues that the court abused its discretion by awarding attorney fees and costs as sanctions (§ 271) for the private judge's appointment. We disagree.

Under section 271, the court may assess attorney fees and costs against a party when that party's conduct "frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation between the parties and attorneys." (§ 271, subd. (a).) This section penalizes "[f]amily law litigants who flout that policy by engaging in conduct that increases litigation costs." (*In re Marriage of Petropoulos* (2001) 91 Cal.App.4th 161, 177.)

We review a sanctions order under section 271 for abuse of discretion. (*In re Marriage of Corona* (2009) 172 Cal.App.4th 1205, 1225.) We apply substantial evidence review to any findings of fact underlying the sanctions order. (*Id.* at p. 1226.) That is, we consider all of the evidence "in the light most favorable to the prevailing party," drawing all reasonable inferences and resolving all conflicts in support of the court's findings. (*Jessup Farms v. Baldwin* (1983) 33 Cal.3d 639, 660.)

The court found that Jason's lack of cooperation and violation of court orders necessitated, among other things, the appointment of the private judge. The private judge cost the parties $500 per hour and thus increased litigation costs. But Jason contends that the parties stipulated to the private judge, so it was "an attempt to cooperate and settle," not his uncooperative conduct, that led to the private judge.

The fact that the parties stipulated to the private judge does not necessarily mean that Jason was being cooperative. Indeed, the stipulation also gives rise to a competing

reasonable inference: Jason's uncooperative conduct convinced Karen that she would need to seek court intervention on numerous issues, so she agreed to use a private judge, who would not be burdened by a busy trial court calendar and who would likely resolve the case faster than the superior court judge.

Jason has the burden of setting forth all the material evidence on this issue and showing why it does not sustain the court's finding of uncooperativeness. (*Baxter v. Healthcare Corp. v. Denton* (2004) 120 Cal.App.4th 333, 368.) He has not done so. Indeed, he discusses no evidence whatsoever. Consequently, he has forfeited his contention that the finding of uncooperativeness is unsupported. (*Ibid.*)

In any event, the record contains substantial evidence to support the inference that his lack of cooperation and violation of court orders convinced Karen of the need for a private judge.

When Karen first requested the DVRO in February 2013, her declaration set forth recent text messages from Jason that threatened to wage "a war," bring down "hell[]," and "destroy everything in sight." (Underscoring and capitalization omitted.) According to her declaration, Jason also threatened to fabricate cash transactions and photographs, destroy their businesses, "and do whatever else he can to hurt [her]." After being served with the TRO, he cancelled her credit cards, turned off the utilities at the family home where she lived, disconnected her cell phone, stopped making car payments, and stopped paying other household bills.

After the court ordered spousal and child support in April 2013, Jason did not pay any support for two months and paid only part in June 2013. By July 2013, Karen had obtained a fraction of the support arrears through a writ of execution.

After the court ordered Jason to give Karen monthly financial statements for their companies, he produced none for the first two months. As of July 2013, he had produced financial statements for only one of the two companies (Hammerco).

The court ordered a custody evaluation in April 2013 and directed both parties to cooperate with the evaluator, including by signing releases for any medical, psychological, and psychiatric records. By July 2013, Karen had completed all of her testing and interviews with the evaluator and had produced their daughter for her evaluation. At the same time, Jason had scheduled only one session with the evaluator, had missed a conjoint session with their daughter, and had not signed releases for his medical and psychiatric records. As a result, the custody evaluator was not going to complete his evaluation before the scheduled custody hearing in August 2013.

In July 2013, Jason presented a letter from a physician's assistant stating that he could not "have any increased stress" for the next six weeks, as he was "weaning off opio[i]d type medications." In August 2013, the court entered a stipulation and order calling for random drug testing of both parties. The party requesting testing had to advance the cost of the test. Karen gave notice for Jason to drug test on two dates in September and October 2013, but he failed to appear both times.

Jason was also refusing to produce discovery. Karen served him with a demand for production of documents, and his response was due in April 2013. He did not

produce the requested documents. In August 2013, he stipulated to produce the documents and other discovery by September 2, 2013, and still he did not produce them by that date. He also appeared for his deposition later in September without producing requested documents. The parties agreed on the record that he "would immediately produce all records requested." Forty-four days after his deposition, he had not produced the requested documents.

This is only some of the evidence showing that Jason was uncooperative or violating court orders before the appointment of the private judge. Viewed in isolation, Jason's stipulation to the private judge might be seen as a cooperative move. But in the context of his behavior since the beginning of the case, the more reasonable inference is that Karen wanted the private judge to better manage Jason's uncooperative conduct.

Jason also argues that because he paid the private judge's fees, it was improper to award sanctions on top of those costs "without a reference" to his uncooperative behavior. First, Jason has forfeited this argument. He provides no record citation to show that he paid the private judge's fees. (Cal. Rules of Court, rule 8.204(a)(1)(C); *Duarte v. Chino Community Hospital* (1999) 72 Cal.App.4th 849, 856.) And his assertion contradicts the stipulation and order appointing the private judge, which provided that the parties would share the cost equally. Second, even if he did not forfeit the argument, and assuming it is true that he paid all of the private judge's fees, the argument lacks merit. As we have discussed, substantial evidence of his uncooperative conduct exists in the record, regardless of whether the court expressly referenced the evidence in its decision.

In sum, the court did not abuse its discretion by imposing sanctions for the private judge's appointment.

III. *Appointment of the Receiver*

Jason argues that there was insufficient evidence that his inability to cooperate necessitated the receiver, so the court should not have imposed sanctions for the receivership either. Again, we disagree.

Jason makes no attempt to discuss all of the evidence relevant to his argument and show why it does not sustain the court's finding. (*Baxter Healthcare Corp. v. Denton*, *supra*, 120 Cal.App.4th at p. 368.) He instead makes a number of factual assertions without citation to evidence in the record. For example, he suggests that the receiver's report confirmed his claims throughout the case—that Hammerco was operating at a negative net income and that he consequently could not afford his support obligations. But he provides no record citation to a report by the receiver or to his claims that Hammerco was operating at a loss. In fact, the sections of his opening brief addressing the receiver cite solely his counsel's argument at the attorney fees hearing. Counsel's arguments are not evidence (*Beagle v. Vasold* (1966) 65 Cal.2d 166, 176), and Jason's unsupported factual assertions do not show a lack of substantial evidence to support the court's finding.

In contrast, Karen's evidence in support of the receivership request supplied substantial evidence that Jason was uncooperative and was violating court orders. (*Consolidated Irrigation Dist. v. City of Selma* (2012) 204 Cal.App.4th 187, 201 [the testimony of a single witness may constitute substantial evidence, so long as it is not

inherently improbably or incredible on its face].) He had consistently violated the court's support orders, even after his contempt conviction, to the extent that he owed over $200,000 in arrears. He had violated the court's order to pay Karen $100,000 in attorney fees and costs. He had violated the court's order that he make matching payments to Karen's attorney when he paid his own attorneys out of Hammerco's funds. And he had violated the court's order that he give Karen financial records for Hammerco each month. Karen's evidence showed that at least two reasons for the receiver were to compel Jason to pay his support obligations and to keep her informed of the status of the business.

For these reasons, we reject Jason's substantial evidence challenge to the sanctions based on the receivership.

IV. *Disparity of Resources and No Unreasonable Financial Burden*

Jason contends that the court abused its discretion by awarding fees and costs under section 2030 because there was not substantial evidence of "a significant disparity of incomes between the parties." (Boldface and capitalization omitted.) Relatedly, he contends that the court imposed an unreasonable financial burden on him under section 271. We reject both of these challenges.

Under section 2030, if the court finds that there is a disparity between the parties in access to funds and ability to pay, the court may ensure parity of legal representation by awarding attorney fees and costs to the needier party. (§ 2030, subd. (a)(1)-(2); *In re Marriage of Falcone & Fyke*, *supra*, 203 Cal.App.4th at p. 975.) The award must be "just and reasonable under the relative circumstances of the respective parties." (§ 2032, subd. (a).) "Financial resources are only one factor for the court to consider." (§ 2032,

subd. (b).) The court may also consider factors like the parties' earning capacities, their obligations, and their assets, including investment and income-producing properties. (§§ 2032, subd. (b), 4320, subds. (a)(1), (e); *In re Marriage of Dietz* (2009) 176 Cal.App.4th 387, 406.)

The court has broad discretion to fashion a need-based fee award, and we therefore review the award for abuse of discretion. (*In re Marriage of Falcone & Fyke*, *supra*, 203 Cal.App.4th at p. 975.) We review the underlying factual findings for substantial evidence. (*In re Marriage of Drake* (1997) 53 Cal.App.4th 1139, 1151, 1168.)

Jason again fails to carry his burden on appeal. He has not set forth all of the relevant evidence and explained why it does not sustain the court's finding of a "disparity of income and resources between the parties." Instead, he repeatedly asserts that the court did not consider relevant circumstances. Apart from one citation to his income and expense declaration, he cites no evidence in the record.

First, there is no basis for Jason's assertion that the court failed to consider all of the relevant circumstances. The record shows otherwise. At the hearing on Karen's request for attorney fees and costs, the parties questioned whether the court had found time to read all of their papers. The court told the parties that it had "read the pleadings," and said: "I don't know where you're getting the impression I haven't. Surely you guys know me by now. I read everything." And in the tentative decision, the court indicated that it based its ruling on "[a] careful review of the file."

Second, substantial evidence supported the court's disparity determination. According to Karen's income and expense declaration, she earned an average salary of

$1,578 per month as a legal assistant and an average of $2 per month in investment income, and she had assets totaling $37,539. She had average monthly expenses of $9,902, and debts totaling $234,922 (including $186, 328 that she owed to her attorney and forensic accountant). As to spousal support, the stipulated judgment forgave Jason's substantial support arrears. But he agreed to pay Karen $500,000 in spousal support going forward—$10,000 on the first of each month and $50,000 on December 31 for the next three years, until he paid off the $500,000 obligation.

Jason's income and expense declaration showed that he earned a salary of $6,630 per month and an average of $2,234 per month in investment income. He had $9,973.49 in average monthly expenses and debts totaling $252,474.15 (including $222,274.15 for attorney fees). According to his declaration, he had no assets in checking or savings accounts and no stocks or bonds. The section for other real and personal property was left blank.

The declaration of Karen's forensic accountant controverted Jason's evidence of his income and assets. The stipulated judgment had awarded Hammerco and the parties' other business (WaterTrailers.Net, Inc.) to Jason. The accountant valued Hammerco at $1,445,000 and opined that Jason had $37,132 of income per month, consisting of salary and other income from Hammerco, royalty income, and gifts from his mother. The accountant based his opinion primarily on Hammerco's tax return and the company's financial records for the last calendar year, which the receiver had provided. But royalties from oil, gas, and mineral leases constituted the largest portion of Jason's monthly income.

Notably, the accountant's opinion excluded any income Jason might be earning from a ranch in Montana that he owned. Karen was not able to obtain the necessary information on the ranch through discovery. When Jason disclosed the existence of the ranch much earlier in the case, he refused to provide information about its value on the ground that it was his sole and separate property and "not relevant to this case." (Capitalization omitted) But the stipulated judgment had awarded Jason a Montana business called JSH Land and Cattle Company and "[a]ll cattle on the ranch in Montana."

Moreover, the stipulated judgment awarded Jason a number of assets that he could sell, including six cars, a Harley Davidson motorcycle, an all-terrain vehicle, and a motor home. In contrast, Karen received one car in the division of property.

This evidence demonstrates a significant disparity between the parties in income and other assets. Karen's monthly income of about $11,500 (if you include her spousal support) and her assets of about $37,000 pale in comparison to Jason's income and assets, given his stake in Hammerco, his royalties, and his other income. This is to say nothing of the Montana ranch, the value of which Jason refused to disclose. The court was entitled to credit Karen's evidence over Jason's income and expense declaration or any of his other evidence. We do not weigh conflicts or resolve disputes in the evidence. (*Howard v. Owens Corning* (1999) 72 Cal.App.4th 621, 630.) Our only task is to determine whether any substantial evidence, contradicted or not, supports the court's disparity finding. (*Id.* at pp. 630-631.) It does.

Jason's argument with respect to the unreasonableness of the section 271 sanctions fares no better. The party requesting sanctions need not demonstrate a financial need for

the award. (§ 271, subd. (a).) But in determining the amount of sanctions, "the court shall take into consideration all evidence concerning the parties' incomes, assets, and liabilities." (*Ibid.*) The court shall not "impose[] an unreasonable financial burden on the [sanctioned] party." (*Ibid.*)

Jason contends that the court failed to consider all of the evidence and imposed an unreasonable financial burden on him by ordering sanctions for the private judge and the receiver. We reject this argument for the reasons just discussed. The record contains no support for the assertion that the court failed to consider all of the evidence. Rather, the court resolved conflicts in the evidence in favor of Karen, as it was entitled to do. And in light of the evidence that Jason earned over $37,000 per month, owned a business valued at $1,445,000, and had other substantial assets—such as the Montana ranch, numerous vehicles, and the motor home—the court did not abuse its discretion by implicitly concluding that the sanctions were reasonable.

In sum, the court did not abuse its discretion by concluding that Jason had significantly more resources than Karen, nor did it abuse its discretion by concluding that the award imposed a reasonable financial burden on Jason.

V. *The DVPA Proceedings*

Lastly, Jason contends that the court abused its discretion by awarding attorney fees and costs for the DVPA proceedings. He asserts that Karen was not the prevailing party on her requests for a DVRO because the court did not find that he had committed domestic violence, the parties resolved the requests by stipulation, the parties agreed to

mutual restraining orders, and "permanent orders were never issued." This argument fails.

The DVPA contains two provisions governing attorney fees and costs. The court "may" award attorney fees and costs to the "prevailing party." (§ 6344, subd. (a); *Faton v. Ahmedo* (2015) 236 Cal.App.4th 1160, 1168.) But the court "shall" award attorney fees and costs to a prevailing petitioner who cannot afford them, "if appropriate based on the parties' respective abilities to pay." (§ 6344, subd. (b); accord Hogoboom & King, *supra*, ¶ 14:46.10.) We review the court's prevailing party determination for abuse of discretion. (*Elster v. Friedman* (1989) 211 Cal.App.3d 1439, 1443-1444.)

Petitioners are the prevailing parties when they get most or all of what they want by filing the request for a restraining order. (*Elster v. Friedman, supra,* 211 Cal.App.3d at p. 1443.) And the court should not deny attorney fees merely because the parties reached a resolution in the petitioners' favor by settlement. (*Id.* at pp. 1442, 1444 [although the restraining order was set forth in a stipulated judgment, the petitioners were the prevailing parties and entitled to attorney fees and costs].)

As to Karen's first request for a DVRO, she was the prevailing party. She obtained the personal-conduct and stay-away orders that she sought. The court did not need to make a specific finding of domestic violence for Karen to be the prevailing party, given that Jason agreed to the restraining order. Moreover, the fact that the restraining order would expire in three years instead of the maximum five years (§ 6345, subd. (a)) does not diminish her prevailing party status. She achieved most of what she wanted.

Further, Jason's characterization of the stipulated restraining order as "mutual" is not accurate. The same stipulation that contained the restraining order also addressed child custody and visitation. That part of the stipulation gave sole legal and physical custody of the parties' daughter to Karen, while Jason had visitation on alternating weekends and Wednesdays. In that context, the stipulation restrained both parties from making derogatory or disparaging remarks about each other in their daughter's presence and from discussing the case with her or in her presence. This part of the stipulation was mutual, but nothing about the antiharassment and stay-away orders was mutual. Jason was the only restrained party.

As to Karen's second request for a DVRO, the stipulation and order dismissed it but also reaffirmed the terms of the earlier restraining order, which was over two years away from expiration. Nevertheless, Karen did not obtain the five-year CLETS DVRO that she sought. Even if this outcome means that she was not the prevailing party, Jason has not shown that the court erred. The court also relied on section 271 for the fee award and referenced the DVPA proceedings as evidence of Jason's "lack of cooperation and multiple violation of court orders." The record supports this determination. As set forth in Karen's declaration, Jason violated the stipulated restraining order, causing her to file the second request. His violation increased litigation costs and "frustrate[d] the policy of the law . . . to reduce the cost of litigation." (§ 271.)

In short, the court did not abuse its discretion by determining that Karen was entitled to attorney fees and costs for the DVPA proceedings.

VI. *Karen's Motion to Dismiss*

Karen moves to dismiss this appeal under the disentitlement doctrine. "The disentitlement doctrine enables an appellate court to stay or to dismiss the appeal of a party who has refused to obey the superior court's legal orders. [Citation.] . . . It is an exercise of a state court's inherent power to use its processes to induce compliance'" with a presumptively valid order.' [Citations.] Thus, the disentitlement doctrine prevents a party from seeking assistance from the court while that party is in 'an attitude of contempt to legal orders and processes of the courts of this state.'" (*In re Marriage of Hofer* (2012) 208 Cal.App.4th 454, 459.) Dismissal of an appeal under the disentitlement doctrine is an equitable remedy subject to our discretion. (*Ironridge Global IV, Ltd. v. ScripsAmerica, Inc.* (2015) 238 Cal.App.4th 259, 265.)

Although there is ample evidence that Jason violated multiple court orders, we decline to exercise our discretion to dismiss this appeal. We elect to make clear that Jason's arguments have no merit and that he has no legal grounds for refusing to comply with the court's judgment.

DISPOSITION

The motion to dismiss this appeal is denied. The judgment awarding attorney fees and costs is affirmed. Karen shall recover her costs of appeal. (Cal. Rules of Court, rule 8.278(a)(1).)

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

MENETREZ
J.

We concur:

FIELDS
Acting P. J.

RAPHAEL
J.